

THE CASE  
FOR  
SAME-SEX  
MARRIAGE IN  
CONNECTICUT:

*A Case for Equality?  
Or A Case for  
Reconstructing the  
Family and Society?*



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## INTRODUCTION

**T**he United States Constitution grants equal rights under the law to all citizens, but it does not grant homosexual persons the right to marry or, for that matter, any special rights. For a man to obtain the right to marry a man, or a woman the right to marry a woman, requires a re-definition of “marriage” by act of the State Legislature.

**First, Vermont.** In 2000, the Vermont legislature passed a statute that gave same-sex partners the right to join in a “civil union.” Though not called “marriage,” the civil-union law is treated in all respects under Vermont law as marriage.<sup>1</sup>

**Next, Connecticut?** In 2001, the fight for same-sex marriage moved south, to Connecticut. In March 2001 and again in February 2002, a committee of the Connecticut General Assembly heard testimony from people outside of Connecticut, and within, supporting civil-union or same-sex marriage legislation. The legislation was opposed by many who believe that families and our culture are best served by preserving marriage as the union of one man and one woman and affirming the importance of both a mother and father in a child’s development.

Those who have supported this legislation in the past have made it clear that they will not stop working until they have redefined marriage in Connecticut. In 2002, advocates of same-sex marriage legislation succeeded in ordering the General Assembly’s Judiciary Committee, by January 1, 2003, to conduct a study and to issue a report supporting same-sex marriage legislation, opposing it, or supporting a compromise that could lead to future legal recognition of same-sex marriages.<sup>2</sup>

**What Is Really Being Sought?** Although the institution of monogamous marriage is thousands of years old, the fight for same-sex unions began only in this generation. What is this fight about? Six years ago, Michelangelo Signorile, a noted homosexual writer, spoke for himself and many others when he observed:

“The trick is, gay leaders and pundits must stop watering the issue down—‘this is simply about equality for gay couples’—and offer

same-sex marriage for what it is: *an opportunity to reconstruct a traditionally homophobic institution by bringing to it our more equitable queer value system.* Sure, marriage would ensure our inheritance rights, child-rearing rights, visitation rights, and a slew of financial benefits that mere “domestic partnership” arrangements have so far failed to deliver. *But it is also a chance to wholly transform the definition of family in American culture.*”<sup>3</sup>

Is he right? Is this legislation about transforming the definition of family in our culture? Let’s take a look at the impact this legislation would have.

## THE APPROACH TO CHANGE

Legislation authorizing same-sex marriage, if successful, will not have happened overnight. Nor will it have happened only through the effort of those involved in homosexual relationships; studies show that less than 1% of the adult population lives in sexually active homosexual relationships.<sup>4</sup> Instead, if legislation is enacted, it will be because supporters have worked for it and supporters of traditional marriage have permitted it to happen.

Advocates of same-sex marriage aren’t lazy. They have taken and continue to take these steps in the forums of government, education, media, commerce, and religion:

- Contact their legislators (frequently);
- Donate to campaigns of legislators;
- Work on curriculum in schools;
- Conduct “educational” forums for the public;
- Write letters to newspapers;
- Join churches, critique church doctrine and scripture concerning homosexual activity, and, where possible, change church doctrine;
- Join influential governmental, commercial, political, and charitable organizations and seek to change policy within those organizations;

- Work for privileges and benefits within the workplace; and
- Form alliances between individuals and organizations.

Sadly, some go further, intimidating the other side, by confronting and giving the name “bigot” to people who follow their religion, conscience, and reason in finding homosexual activity immoral and unhealthy.

Advocates of same-sex marriage are marked by their passion and persistence. With few exceptions, people whom they oppose—those who believe that marriage should remain the union of one man and one woman—are marked by their silence.

Although one cannot be certain, we may expect that any proposal in Connecticut for same-sex marriage legislation will be presented simply, so that many of the thorny issues discussed in this pamphlet—divorce, adoption, foster care, educational curriculums, etc.—will be addressed only in later sessions of the Connecticut General Assembly. Advocates—who are patient—may also settle for less dramatic changes in the law each year, as legal distinctions between same-sex relationships and marriage erode and resistance dissolves.

## HOW HOMOSEXUAL MARRIAGE DIFFERS FROM HISTORICAL MARRIAGE

**W**on't homosexual marriages look much like traditional marriages? There is no reason to expect so. A few obvious differences:

- *Religion.* Traditional marriages and the children of those marriages are supported, nourished, and sustained by churches, their congregations and parishes, and other communities of faith. Only a few congregations in Connecticut have endorsed “covenantal” same-sex marriages;<sup>5</sup> the vast majority follows scriptural teaching in this area. Although love (affection) is part of the glue that keeps families together, it is a marriage founded in faith, in submission to God and to one another, that provides the strongest bond.

- *Perspective on Commitment.* Most advocates of same-sex marriage emphasize rights and freedom, rather than *lifelong and exclusive* commitment.<sup>6</sup>
- *Emphasis on Personal Freedom.* Advocates view marriage as a contract, which people are free to break (albeit, at some cost).<sup>7</sup> In fact, materials produced by the *Love Makes a Family* coalition<sup>8</sup> complain of same-sex partners being denied the *benefits* of divorce statutes! One recent editorial endorsing same-sex marriage noted with approval the trend in the law to treat marriages “far more like business partnerships than the joining of two souls.” (Is this where we’re headed?)
- *Presence/Absence of a Model to Guide the Relationship.* Individuals who enter into same-sex relationships have no agreed-upon model for dealing with one another. Insisting on personal freedom within the relationship prevents advocates of same-sex marriage from agreeing on principles that should guide and regulate the relationship. As a result, there is no agreed “ideal” for same-sex relationships.
  - Husbands and wives, in contrast, bring a wealth of knowledge and experience to bear on identifying the ideal relationship. Couples rarely enter into marriage with no idea of what the ideal marriage looks like. Those who have been nurtured in traditional families and witnessed a loving, responsible, and self-sacrificing father and mother possess a concrete view of the ideal marriage. Although they will not relive the lives of their parents, they have a model on which they can ground their own relationship.
  - Those who grew up in dysfunctional families are not as fortunate, but they are also not without hope. Although they will often sail through uncharted waters, they can at least stay in the boat by drawing on traditional and scriptural models of the ideal family; and they can see the many *living* models that abound, by receiving instruction from and witnessing the lives of individuals in their community of faith, and even outside, who have succeeded.

- *Presence/Absence of Model for Raising Children To Become Husbands and Wives, Mothers and Fathers.* Same-sex couples will not be able to offer their children, the vast majority of whom will have a heterosexual orientation,<sup>9</sup> a concrete model of how to grow up as men and women in the context of a one man-one woman marriage. By definition, same-sex couples do not offer both a mother and a father living in the home. Instead, they offer two of one, but neither of the other, with perhaps someone of the opposite sex peripherally involved.
  - This deficit has two consequences. First, growing up, children need both a father and a mother. All or nearly all children whose father or mother has failed them can attest to that need. And second, after they have grown up, children who have been raised by both a father and mother will benefit as they marry and raise their own families. A son entering marriage after having been raised by a same-sex couple will have no clear model of what he should or should not expect of himself as husband and father. Daughters will likewise suffer. All new wives, husbands, mothers, and fathers learn “on the job,” but are more likely to succeed in their own relationships and in raising their children when they are not learning from scratch.
- *Health.* One other distinction that merits discussion is the nature of sexual activity itself. Sexual intercourse for a married couple—at least for a husband and wife who have not engaged in sex outside of marriage—is always “safe.” If condoms are used within marriage, it is not for safety. Not so for homosexuals, especially homosexual men, for whom sex is never safe.<sup>10</sup> As reported in studies of sexually active homosexual men, the sexual practice most favored by homosexual men results in physical trauma to the affected region and frequently results in a host of illnesses, even among those who wish to be faithful to the other partner.<sup>11</sup>



## CIVIL RIGHTS

### *Constitutional Law*

**T**he Supreme Court of the United States has made it clear that the U. S. Constitution grants homosexuals no special rights or preferences. The reason is that homosexual orientation, unlike race or sex, is an *innate* (inward) characteristic, one that cannot be observed unless the individual chooses to reveal that characteristic. “Those persons who fall within the orbit of legislation concerning sexual orientation are so affected not because of their orientation but rather by their *conduct* which identifies them as homosexual, bisexual, or heterosexual.”<sup>12</sup>

The Supreme Court has also ruled that on moral grounds, sexual activity between homosexuals can be regulated and even prohibited.<sup>13</sup>

It would be wrong, of course, to deny people fundamental rights, among them the right to the free exercise of their religion, the right to speech, and the right to assembly. The right to marry is a fundamental right. But under the U.S. Constitution, one is not guaranteed a right to marry anyone one chooses. States are free to define marriage as it has historically been defined, as the union of one man and one woman.

### *Denying Freedom Through Same-Sex Marriage Legislation*

**A**lthough homosexual activists and their supporters see same-sex marriage as an issue of freedom, they seek through legislation to deny freedom to those whose conscience affirms marriage as a union of one man and one woman. For example, when the Vermont legislature passed its civil union law, it required any Justice of the Peace who performs marriage ceremonies to perform civil-union ceremonies or face stiff fines. The Vermont Civil Union Review Commission reported that within just a few months after the civil-union law took effect, complaints had been filed against owners of inns and banquet halls, a photographer who chose not to provide services for those engaged in civil unions, and even against a newspaper that published wedding announcements but not civil union announcements. What about freedom? As one same-sex-union supporter testified at a hearing before

the Connecticut legislature, under the new law people who held traditional views would still be able to express their views — “in their churches.”

### *Attacking Religion*

It is not uncommon for homosexual-rights advocates to attack as “bigots” Christians and others who disagree with them. They sometimes slander Christians of the present by comparing them with racists of the past. They neglect to point out the obvious: It was the work of Christians that led to the end of slavery in America and, although there is more to be done, it has been the diligent work of Christians that has led to the greatest advancements in ending racism in America. These Christians grounded their convictions on the clear authority of scripture and challenged those who misused scripture. In speaking to an antagonistic world, they endured ostracism and persecution.

In the matter of marriage, Christians, though grounded in scripture, are also grounded in experience: they understand the destructive health consequences of homosexual activity (including diseases contracted within “monogamous” homosexual relationships)<sup>14</sup> and understand the great price that has been paid by men, women, and children when, in marriage, the desire for personal freedom has supplanted the biblical virtues of love and self-sacrifice.

Christians are not alone in their views, but are joined by Jews and other people of faith who seek to preserve the ideal of marriage.

## IMPACT ON ADOPTION AND FOSTER CARE

**A married couple would not be entitled to preference in adoptions.**<sup>15</sup> Right now, homosexual couples in Connecticut cannot adopt, with one exception: a homosexual partner can adopt his or her partner's child.<sup>16</sup> In adoption policy, Connecticut law has always favored married couples and, in doing so, has supported the ideal of a child's being raised by a committed mother *and* father. The new law would abandon this ideal.

**Married couples will not be entitled to preference in the foster-care system.** Passage of same-sex marriage in Connecticut or its equivalent, civil unions, would mean that foster children, boys and girls, would be placed with homosexual couples, a possibility that exists now but would become more common. It is true that there is a shortage of foster parents in Connecticut; people of faith and others do need to respond to assist these children in crisis and their parents. But though this problem needs to be answered, the answer is not to change the definition of marriage or abandon the ideal of marriage.

**Workers in adoption agencies and child-placement agencies, regardless of their moral beliefs, will be forced to place children in homes of homosexual couples.** Under the new law, there would be no room for differences of opinions. Right now, Connecticut law explicitly permits the Department of Children and Families and child-placement agencies to consider the sexual orientation of a prospective foster parent or adoptive parent; and it does not require workers to place foster children or children up for adoption with homosexuals or bisexuals.<sup>17</sup>

The new law would change that. Under anti-discrimination rules that would eventually accompany this legislation, many workers—regardless of their moral views or their own views about the best interests of children—would be prohibited from refusing to make adoption placements and foster-care placements in homes of homosexual couples.<sup>18</sup> A limited—and grudging—exception might be made for agencies with a religious affiliation. But all other public and private-placement

agencies—and the entire court system — would be forced to follow the new law.

***In dealing with families, judges and other court personnel will not be able to discriminate between married couples and parties to a civil union.*** In handling disputes involving families, judges, other court personnel, and attorneys are required to take into account many factors and to exercise their informed judgment. The new law will present challenges to anyone in the family-court system who believes that marriage promotes family stability or that the presence of both a loving mother and loving father is essential to the development of boys and girls.

## IMPACT ON PUBLIC EDUCATION

**T**eachers and counselors in schools would be discouraged from defending historical marriage. The historical model of marriage and the family has been in place for thousands of years. Once the new legislation is passed, the historical model would become merely one of many models. The law teaches. And if the law teaches that same-sex unions are “equal” to marital unions, then our schools will teach the same and will not tolerate other teachings. Scriptural teaching will be denounced as “homophobic” and “hateful.”

To believe that schoolchildren, even young schoolchildren, will be immune from teaching directly contrary to their parents’ moral beliefs would be naive. Organizations within and outside of Connecticut are already working on curriculum and are recruiting student workers and adult mentors.

## COST

**A**part from the social cost, there will be substantial financial cost. In fact, much of the literature in favor of same-sex civil unions is about money and benefits. One expense resulting from the Vermont legislation was requiring insurance companies to insure civil-union partners for medical insurance policies and requiring business owners to pay for medical insurance coverage for these partners equivalent to that offered married couples. Business owners would not be free to pay just for married couples, even if, as a matter of conscience, they do not support same-sex unions.

It is almost unthinkable for a man and a woman to marry merely to receive medical benefits, or any other benefits, for that matter. Parties to a civil union, on the other hand, facing potentially enormous health costs, will be tempted to enter into civil unions in order to move the cost of their health coverage from themselves to a business owner.

## FUTURE CHANGES: TRANSFORMING THE DEFINITION OF MARRIAGE AND FAMILY

**S**ome naively think that if same-sex marriage is allowed, that will bring an end to the controversy and we can then move on with our lives. Not quite. Over time we should expect tampering with the marriage model itself. As we have noted, with few exceptions men and women who enter into marriage have a model, a firm idea of what they expect of their spouse and of themselves. With few exceptions, those who enter into marriage understand the ideal of marriage and family. And they understand the seriousness of the commitment they are making. Our culture and religions provide a model for marriage. No such understood or agreed-upon model exists for relationships outside of marriage, including homosexual relationships; rather, the principle of freedom predominates. If same-sex unions become equivalent to marriage under the law, then we should expect that those who disagree with the model of monogamous marriage will move to attack that model.

Paula Ettelbrick, former legal director of the Lambda Legal Defense and Education Fund, said: “Being queer is more than setting up house, sleeping with a person of the same gender, and seeking state approval for doing so . . . . Being queer means pushing the parameters of sex, sexuality, and family, and in the process transforming the very fabric of society.”<sup>19</sup>

Michelangelo Signorile: “[The goal is] to fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, to demand the right to marry not as a way of adhering to society’s moral codes but rather to debunk a myth and radically alter an archaic institution. . . .The most subversive action lesbian and gay men can undertake . . . is to transform the notion of ‘family’ entirely.”<sup>20</sup>

There will be no peace. Efforts to “reform” marriage and family will continue. Having been granted “membership” in the institution of marriage, activists will not hesitate to advocate persistently for change in that institution.

## **FUTURE CHANGES: INDIVIDUALS OUTSIDE THE “MAINSTREAM” HOMOSEXUAL MOVEMENT**

**U**ntil only the past few decades, homosexual activity was universally condemned and had been so since ancient times. How quickly—and dramatically—views have changed! If same-sex civil unions or marriages are recognized under the law, individuals whose “orientation” draws them to polygamy, incest, or sexual relationships with younger people will seek legal recognition or “tolerance” of their relationships. They will attack as artificial all models based on sexual orientation (“normal” heterosexual or “mainstream” homosexual). Further, they will dismiss all discussion of “moral” issues; in fact, they will point to this legislation as authority for the proposition that there is no one moral ideal, and they will question the authority of government

to assert certain moral claims in the area of human sexuality and family. (These arguments are already being made.<sup>21</sup>) Will these people prevail soon? Probably not. But we can expect them to persist, just as homosexual activists have persisted in changing laws.

## DO ADVOCATES OF SAME-SEX UNIONS HAVE ANY LEGITIMATE CONCERNS?

The answer is “yes,” *but not enough to warrant a change in the definition of marriage*. For example, all people should be allowed to designate a close friend or relative who can visit them in a hospital or who should be contacted by an employer in the event of an emergency. But to make those changes does not require adopting same-sex marriage or abandoning the definition or ideal of marriage. Certain privileges conferred on spouses should also be available to unmarried persons without regard to sexual orientation or the presence or absence of sexual activity or relationships in their lives.<sup>22</sup>

## DO ADVOCATES OF SAME-SEX UNIONS OFTEN EXAGGERATE THEIR CONCERNS?

The answer again is “yes.” Some examples:

- **Health Care.** A recent article reported, incorrectly, that marriage confers on partners “the right to make medical decisions on behalf of one another. Without it, activists say, same-sex partners essentially are strangers.”<sup>23</sup> The reality is otherwise. A competent individual controls decisions affecting his or her own health care; marriage does not change that. Marriage also doesn’t affect an individual’s ability to choose in advance who will make decisions for him or her in the event he or she becomes incapable. A *durable power of attorney* allows the individual to select someone to handle financial

and health care decisions. For those who desire court supervision in the event of incapacity, a *designation of conservator* allows the individual to select one or more conservators (guardians) who would serve. A *designation of health care agent* allows the individual to select who will implement his or her living will in the event of a terminal illness. All of these documents are inexpensive to produce and are available to individuals regardless of marital status.

- **Support.** Advocates claim that the law does not compel same-sex partners to support one another. True enough. However, they can agree to support one another and make that promise binding in a contract. One Connecticut advocacy group claims, “These contracts cost hundreds of dollars to have prepared . . .” Obviously, we should not change the definition of marriage so that some people can save “hundreds of dollars.”
- **Inheritance.** Advocates claim that same-sex couples cannot inherit from their partners. They neglect to mention that they can write a will or living trust, leaving their assets to their partners. Or, if they do not care to spend money on a will or living trust, they can leave their assets in joint ownership or in other transfer-on-death arrangements. One doesn’t have to marry an individual to leave assets to that individual.
- **Taxes**
  - *Income Taxes.* Federal law does not recognize same-sex marriage;<sup>24</sup> changing the state law of marriage will have no impact on federal income taxes or other federal taxes. Further, being married can result in higher income taxes for some people and lower taxes for others. Marriage does not automatically confer a tax benefit.
  - *Gift Taxes.* It is true that the Connecticut gift tax confers a benefit on transfers between married couples. However, Connecticut gift-tax rates are modest, and the Connecticut gift tax is in the process of being repealed (except for total *annual* gifts in excess of \$1,000,000).



- ***Inheritance Taxes.*** It is true that the Connecticut succession tax is assessed on transfers between unrelated individuals. However, the Connecticut inheritance tax ends on December 31, 2005. Until then, it exempts transfers of up to \$200,000 for those who die in 2002, \$400,000 for those who die in 2003, \$600,000 for those who die in 2004, and \$1.5 million for those who die in 2005. Not a reason for changing the definition of marriage.
- ***Custody of Remains.*** Advocates state correctly that the next of kin is ordinarily given the legal right to custody of a decedent's remains. However, unmarried people may designate another person who will have custody of their remains. This simple designation must be signed and acknowledged (notarized).

## WHAT WE SUPPORT

***DOMA Legislation.*** Between 1996 and 2001, 35 states had taken steps to protect the historical model of marriage, by enacting defense-of-marriage acts (DOMAs) and amendments to their state constitutions. By a nearly 6-to-1 margin in both houses, the U.S. Congress in 1996 enacted a defense-of-marriage act that, for purposes of federal law, limits marriage to the union of one man and one woman; the legislation also attempts to prevent States that, in the future, permit marriage between homosexual couples from forcing other States to redefine their policy on marriage.<sup>25</sup> Connecticut should follow this positive trend and change the State Constitution to provide that it is the policy of this State that marriage is the union of one man and one woman.

***Laws That Strengthen the Family.*** We should consider legislation that seeks to strengthen families. An idea that deserves consideration is to encourage premarital counseling, so that people understand the commitment they are making and the consequences of that commitment. Those who opt out of counseling could be subject to a longer waiting period between filing an application for and obtaining a wedding license. Another idea, enacted in several States, is “covenant marriage.” In a covenant marriage, the husband and wife would be able

voluntarily to waive or put restrictions on their right to a “no-fault” divorce, stating their resolve to stick it through; they would *not* waive their right to divorce in the event of infidelity, abuse, or some other serious ground.

**Action within Our Community.** It is important that we individually and collectively take action

- To show respect and extend friendship to all, regardless of sexual orientation, who choose to live a chaste life either inside of marriage or outside of marriage.<sup>26</sup>
- To show respect and to extend kindness to those who, regardless of sexual orientation, choose not to live a chaste life. (One can show respect without abandoning one’s values.)
- To support and encourage marriage, by offering friendship and assistance to families in need. All families from time to time need support and encouragement from other family members, friends, and congregations and parishes.
- To educate young people on the importance of fidelity and commitment in marriage.

### *The Pro-Family Coalition of Connecticut*

The Pro-Family Coalition is a multi-denominational group of persons who coordinate their talents, beliefs, and efforts to educate the citizens of Connecticut to advocate and to affirm the institution of marriage as between a man and a woman. The Coalition includes representation from the Roman Catholic Bishops of Connecticut and the four Roman Catholic Dioceses in Connecticut and individual members of the Church of God in Christ International (Pentecostal), the Episcopal Church, the fellowship of Baptist Churches, the Lutheran Church Missouri Synod, the Presbyterian Church (PCUSA), and the United Church of Christ. Individual members of the Orthodox Jewish Community and the Islamic Community have also offered their support to the Coalition to protect the institution of marriage.

## ENDNOTES

- 1 In 2001, a newly elected Vermont House voted to repeal the law, replacing it with a “reciprocal benefits” law. The Vermont Senate did not vote for repeal.
- 2 Public Act 02-105, Section 16. The legislation requiring the study and report was sponsored by the House Chairman of the Judiciary Committee, Representative Michael Lawlor, a strong supporter of same-sex marriage legislation. “Legal recognition of gay couples will happen, Lawlor predicts. What is undecided, he says, is what form the legislation will take—marriage, civil unions or domestic partner benefits . . .—and when it will pass.” Waterbury Republican, February 18, 2002, p. 5B (Associated Press).
- 3 Michelangelo Signorile, “I Do, I Do, I Do, I Do, I Do,” Out, June 1996.
- 4 Table PCT14 of the 2000 U.S. Census estimates that of 1,301,670 households in Connecticut, only 7,386 (< 6/10 of 1%) are occupied by same-sex “partners.” Inside and outside Connecticut, the number of individuals who actually engage in exclusively same-gender sexual activity is small. Several studies have shown that less than 1% of the overall adult population of males and females has engaged in exclusively same-gender sexual activity within the preceding five years. See Sell et al., “The Prevalence of Homosexual Behavior and Attraction in the United States, the United Kingdom, and France: Results of National Population-Based Samples,” *Archives of Sexual Behavior*, 24 (1995): 235-48, and other studies cited in Jones and Yarhouse, *Homosexuality: The Use of Scientific Research in the Church’s Moral Debate*, pp. 42-43 (2000; InterVarsity Press). Men who reported any sexual activity with men in the past year averaged between 1% and 2%; figures for women were substantially lower. Estimating the number of persons with homosexual orientation, whether or not they act on it, is problematical: those who experience same-gender sexual attraction do so at different levels, and there is strong disagreement about the level and frequency at which same-sex attraction constitutes a “homosexual” orientation.
- 5 The largest Protestant denomination in Connecticut is the United Church of Christ. At its annual meeting in 1989, delegates from Connecticut UCC churches adopted a resolution that led to the ordination of homosexual clergy and encouraged congregations to become “open and affirming,” meaning that sexually active homosexuals could be admitted to the fellowship of believers, sharing authority over church matters with other members. The resolution is not binding on member churches. Fewer than 10% of UCC churches in Connecticut have become “open and affirming,” no doubt due in part to the clear scriptural authority in the Old and New Testament condemning homosexual activity (and all sex outside of marriage) as sin. Other “main-line” American Protestant denominations are currently facing this issue.
- 6 Sexual relationships among homosexual men tend not to be marked by durability or by fidelity to one partner. “D.P. McWhirter and A.M. Mattison (*The Male Couple: How Relationships Develop* . . . [1984]) found that of the 156 couples in their study, none of the relationships that lasted more than five years was monogamous, and only seven couples in the study were maintaining exclusivity . . . Hickson et al. confirm this finding in relation to their more recent British study (‘Maintenance of Open Gay Relationships,’ p. 412).” Thomas E. Schmidt, *Straight and Narrow: Compassion and Clarity in the Homosexuality Debate*, n. 40, Ch. 6 (“The Price of Love”), InterVarsity Press 1995.

- 7 “The duty to keep a contract at common law means a prediction that you must pay damages if you do not keep it, — and nothing else.” Oliver Wendell Holmes, *The Path of The Law*, 10 Harv. L. Rev. 457, 462 (1897). In contract law, moral considerations seldom play a part in the assessment of damages.
- 8 According to the Connecticut Civil Liberties Union (CCLU), in 1999 “CCLU and the CT Coalition for Lesbian, Gay, Bisexual and Transgender Civil Rights (CCLGBTCR) convened a meeting of the core team from 1999 [that had successfully opposed defense-of-marriage legislation]. It was determined that we would start a new coalition, the Love Makes a Family Coalition (LMF), to work on three things: 1. Passage of co-parent adoption legislation 2. Passage of Domestic Partnership Arbitration Award and Legislation, and 3. Defeating any Connecticut Defense of Marriage Amendments (DOMAs) . . .”
- 9 A recent comprehensive study on identical twins, based on the Twin Registry of the nation of Australia, shows that genetics appear not to be an important factor in determining homosexual orientation. Bailey, et al., “Genetic and Environmental Influences on Sexual Orientation and its Correlates in an Australian Twin Sample,” *Journal of Personality and Social Psychology* 78 (March 2000): 33, discussed at length in Jones and Yarhouse, pp. 74 et seq. This study corrected an earlier, and more publicized, study by Bailey that was affected by significant problems, including sample bias. The study suggests that a number of non-genetic factors can lead to an exclusively homosexual orientation.

Are children raised by homosexual parents more likely to engage in homosexual activity? According to the Committee on Psychosocial Aspects of Child and Family Health of the American Academy of Pediatrics, “Compared with young adults who had heterosexual mothers, men and women who had lesbian mothers were slightly more likely to consider the possibility of having a same-sex partner, and more of them had been involved in at least a brief relationship with someone of the same sex, but in each group similar proportions of adult men and women identified themselves as homosexual.” “Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents,” *Pediatrics*, Vol. 109, Number 2, pp. 341-344 (2002). This brief report does not state that children raised by same-sex parents fare as well as children raised by a married mother and father. Rather it merely approves second-parent adoption by same-sex partners for several reasons (including a desire to dismantle “pervasively heterosexist legal precedents” and to have children obtain access to the nonparent partner’s medical insurance).

Curiously, only in passing did it note deficiencies with the studies on which it relied: “The *small and nonrepresentative* samples studied and the relatively young age of most of the children suggest some reserve.” (Emphasis supplied.) Indeed, to date, studies supporting same-sex parenting, plagued by small and nonrepresentative sample sizes, have lacked scientific precision. Many studies have not provided anonymity to the research participants, contaminating the studies with the “self-presentation” bias of the participants. A well-documented critique of these studies—and critique of homosexual parenting—can be found in Timothy J. Dailey, “Breaking the Ties that Bind: The APA’s Assault on Fatherhood,” *Insight*, No. 213 (2000, Family Research Council).

Dailey quotes the authors of one study, who confessed the limitations of their study: “There is no way of knowing how representative the sample is. ... The high proportion of gay subjects who indicated a willingness to be interviewed suggests that they were perhaps unusually interested in the issues raised in the questionnaire and thus willing to divulge their homosexuality to the researchers. Moreover, even though the questionnaire was anonymous, the gay parents may have been particularly biased toward emphasizing the positive aspects of their relationships with their children, feeling that the results might have implications for custody decisions in the future. Thus, all generalizations must be viewed with caution.” Mary B. Harris and Pauline H. Turner, “Gay and Lesbian Parents,” *Journal of Homosexuality* 12 (1985/86): 111-112, quoted in Dailey.

- 10 “The most common *nonviral infections* among homosexuals are, in order of prevalence, amebiasis, giardiasis, gonorrhea, shigellosis, chlamydia, syphilis, and ectoparasites. . . . [In addition to HIV and AIDS, *viral infections* that are common among homosexuals include, in order of prevalence, condylomata, herpes, hepatitis B and hepatitis A.” Schmidt, 117-119.
- 11 According to the report by Dailey (note 9), “The journal *AIDS* reported that men involved in relationships engaged in anal intercourse and oral-anal intercourse with greater frequency than did those without a steady partner. ... The exclusivity of the relationship did not diminish the incidence of unhealthy sexual acts, which are commonplace among homosexuals. An English study published in the same issue of the journal *AIDS* concurred, finding that most ‘unsafe’ sex acts among homosexuals occur in steady relationships.”
- 12 *Equality Foundation v. City of Cincinnati*, 54 F.3d 261 (6th Cir., 1995); the decision in *Equality Foundation* was later affirmed in 128 F.3d 289 (6th Cir. 1997).
- 13 *Bowers v. Hardwick*, 478 U.S. 186 (1986).
- 14 See notes 10 and 11.
- 15 It is fortunate that Connecticut adoption law takes into account the religious and other preferences of biological parents whose rights have not been forcibly terminated and, in cases of foster care, the preferences of the biological or adoptive parents whose parental rights have not been forcibly terminated. It is hoped that changes in anti-discrimination laws that would eventually accompany same-sex marriage or civil union legislation (see below) would not affect this policy. However, it is expected that the changes in anti-discrimination rules would affect children who have no families to advocate for them.
- 16 Conn. General Statutes Section 45a-727. Section 45a-727a provides that it is the policy of this State that marriage is limited to one man and one woman.
- 17 Conn. General Statutes Section 45a-726a.
- 18 *Employees* of larger organizations could refuse to engage in placements to homosexual couples, if doing so violated their religious convictions and if exempting the employee would not cause the employer undue hardship. “It is well settled that ‘[a]n employer is required to “reasonably accommodate” the religious beliefs or practices of their employees unless doing so would cause the employer undue hardship.’” *Phillips v. Collings*, 256 F.3d 843 (8th Cir. 2001), citing 42 USC Section 2000e(j).

- 19 Paula Ettelbrick, quoted in “Since When Is Marriage a Path to Liberation?” by William B. Rubenstein, *Lesbians, Gay Men, and the Law* (New York: The New Press, 1993), pp. 398, 400, quoted in Dailey.
- 20 Michelangelo Signorile, “Bridal Wave,” *Out*, December/January 1994, quoted in Dailey.
- 21 A double issue of the academic *Journal of Homosexuality* (vol. 20, nos. 1/2, 1990) was devoted entirely to a discussion of “Male Intergenerational Intimacy: Historical, Socio-Psychological, and Legal Perspectives.” In an article entitled “‘The Main Thing Is Being Wanted’: Some Case Studies on Adult Sexual Experiences with Children,” Chin-Keung Li, PhD, reported that about one third of his informants who exhibited pedophilic tendencies felt they were born that way. “This understanding of the innate nature of their pedophilic desire underlies my informants’ feeling that they cannot change, and that they have the same right as people who are born otherwise to pursue the expression of their sexuality.” *Id.* 133.
- 22 In Public Act 02-105, the legislature proved the point by conferring on individuals a number of rights, principally in the area of health-care decisionmaking, without reference to the individual’s marital status. The specific problems cited—visitation and emergency notification—were resolved by this legislation.
- 23 “Debate on Gay Marriages to Resurface,” *Hartford Courant*, 1/14/2002. The mistake was repeated in an article by the same author in the 2/11/2002 edition of the *Courant* entitled “Clergy is Divided on Gay Marriage Bill.”
- 24 See note 25.
- 25 1 USC Section 7 and 28 USC Section 1738C; this act received broad bipartisan support and was approved 85 to 14 in the Senate and 342 to 67 in the House.
- 26 A couple that engages in sex within a marital relationship, of course, is chaste. One is chaste if he or she does not engage in sex outside of marriage.

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